

LARNIE DEAN AND JAMES DEAN.

JUNE 23, 1910.—Ordered to be printed.

Mr. OLIVER, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 8667.]

The Committee on Claims, to whom was referred the bill (H. R. 8667) for the relief of Larnie Dean and James Dean, have given the same a careful consideration and beg leave to submit a report, with the recommendation that the bill pass without amendment.

House Report No. 1237 (61st Cong., 2d sess.) is adopted and made a part of this report as follows:

The Committee on Claims, to whom was referred the bill (H. R. 8667) providing for the relief of Larnie and James Dean, having considered the same, report thereon with a recommendation that it do pass, with an amendment:

Strike out of line 7 the word "four" and insert in lieu thereof the word "two."

The claimants own a parcel of land containing about 66 square poles in the town of Rivesville, Marion County, W. Va., which has been damaged by reason of the construction by the United States of a series of dams between Fairmont and Morgantown, W. Va., in the improvement of the navigation of the Monongahela River.

As a result of the construction of such improvement, part of said land is permanently submerged, and the remainder is submerged when the river is at high-water stage, which continues for at least three months in each year. The time when the high water occurs and the duration of the same are so uncertain as to make it impossible to foresee when that part of the real estate not permanently submerged may be utilized.

The amount of damages claimed by the owners is \$400. The Office of the Chief of Engineers reports damage to some extent, but is without information to determine the amount of such damage. Two affidavits filed on behalf of the claimants show, respectively, damage amounting to \$300 and \$400. According to the best judgment of the committee, from all the information available, the sum of \$200 would be just compensation to the owners of the property for the damage incurred by them, and therefore the passage of the bill is recommended, with an amendment reducing the payment for such damage to that amount.

Appended are the report of the Chief of Engineers, the affidavit of B. C. Coogle, and the affidavit of Fernando F. Prickett.

WAR DEPARTMENT,  
OFFICE OF THE CHIEF OF ENGINEERS,  
Washington, March 27, 1908.

SIR: I have the honor to return herewith letter of Hon. J. M. Miller, chairman of the Committee on Claims, House of Representatives, February 29, 1908, inclosing H. R. 16026, Sixtieth Congress, first session, a bill for the relief of Larnie Dean

and James Dean, together with an affidavit in support of the same, and in reply to its reference to this office to state that Maj. H. C. Newcomer, Corps of Engineers, the local officer in charge to whom the matter was referred, reports as follows:

"This claim of \$400 for damage to land, alleged as a result of the construction of locks and dams in the Monongahela River, Marion County, W. Va., appears to be identical with the one submitted by Mr. James Dean in a letter to the Secretary of War under date of February 5, 1906 (E. D. 58286). The lot of land in question is situated in the village of Rivesville, W. Va., at the mouth of Pharaohs Run, about 7 miles above Lock 14, or 1½ miles below Lock 15.

"Assistant Engineer J. L. Callard, who investigated the matter when the claim was first made, reported as follows:

"The lot is about 175 feet long and 125 feet wide in front, but on account of a bend in the creek it has very little width at the back. When the water is at normal pool level, it covers a very small piece of the lot at the rear. The greater part of the lot is too high to be damaged by floods of ordinary height. Mr. Dean informs me that he used to plant the lot to potatoes before the river was slack watered. He now uses it as a night pasture for his cow. As a pasture lot it is very little, if any, damaged, and, in my judgment, over one-half the lot could still be safely planted to potatoes or any other crop. While Mr. Dean's claim is an exaggeration, it can not be said that he has suffered no damage."

"It appears from this report that the inclosed affidavits are mistaken in stating that the canalization has raised the water so as to totally overflow and submerge the petitioners' land, rendering it wholly worthless. While the land was probably damaged to some extent, there is no information at hand that would enable the amount of damage to be determined."

2. Major Newcomer's statement is concurred in by this office.

Very respectfully,

A. MACKENZIE,  
Brig. Gen., Chief of Engineers, U. S. Army.

The SECRETARY OF WAR.

STATE OF WEST VIRGINIA, *County of Marion, ss:*

F. F. Prickett, being first duly sworn, on his oath says that he is a citizen of Rivesville, Marion County, W. Va., and has resided in said town of Rivesville for thirty-two years; that he is acquainted with the parcel of real estate at the mouth of Pharaohs Run, in said town of Rivesville, which is damaged by slack water by reason of the construction by the Government of the United States, pursuant to an act of Congress, of a series of dams between the city of Fairmont and the town of Morgantown, W. Va., across the Monongahela River, for the purpose of improving the navigation of said river, and for which Larnie Dean and James Dean, the owners of said real estate, have a claim for damages pending before the Committee on Claims of the House of Representatives of the United States.

Affiant further says that the area of said parcel of real estate is 66 square poles, and that the plat hereto attached, made by Charles R. Morgan, surveyor, is a correct plat; that when the said Monongahela River is at average water stage the water therefrom backs into the mouth of said Pharaohs Run and submerges the said real estate about to the red line on said plat, and when said river is at high-water stage it entirely submerges said parcel of real estate; that the high-water stage of said river extends through a period of about three months in each year, and the stage of water in said river being so uncertain during the entire year it renders said parcel of real estate practically useless for any purpose.

Affiant further says that said parcel of land is centrally located in said town, accessible for residence and business building locations—there being a substantial bridge across said Pharaohs Run near said river, and, prior to the construction of said locks and dams in said river, the said land was smooth, level, fertile, and valuable for grazing and agricultural purposes. And affiant further says that immediately prior to the construction of the said locks and dams in said river the market value of said parcel of land was, in affiant's opinion, \$1,500, and the market value thereof at the present time is \$1,200; and that the owners of said land have been damaged by reason of the improvement of navigation of said river to the amount of, at the least, \$300, as affiant verily believes.

Affiant further says that he is not related by blood or connected by marriage with either of the said claimants, and that he has no interest whatever in said claim.

FERNANDO F. PRICKETT.

Sworn to and subscribed before me, this 1st day of April, 1910.

JASPER HAUGHT,  
Justice of the Peace in and for Marion County, W. Va.

My commission expires January 1, 1913.

APRIL 1, 1910.

STATE OF WEST VIRGINIA,

*In the Clerk's Office of the County Court of Marion County, ss:*

I, John F. Phillips, clerk of the county court in and for the county and State aforesaid, do certify that Jasper Haught, esq., who has signed his name to the foregoing certificate or affidavit, was at the time of so doing a justice of the peace in and for said county, duly sworn, and who has been appointed for four years from January 1, 1909; that all of his official acts are entitled to full faith and credit, and that his signature thereto is genuine.

Given under my hand and the seal of the said county court of Marion County, the year and date first above written.

[SEAL.]

JOHN F. PHILLIPS,  
Clerk of the County Court.

STATE OF WEST VIRGINIA, *County of Marion, ss:*

B. C. Coogle, being first duly sworn, on his oath says that he is a citizen of Rivesville, Marion County, W. Va., and has resided in said town of Rivesville for thirty-five years; that he is acquainted with the parcel of real estate at the mouth of Pharaohs Run, in said town of Rivesville, which is damaged by slack water by reason of the construction by the Government of the United States, pursuant to an act of Congress, of a series of dams between the city of Fairmont and the town of Morgantown, W. Va., across the Monongahela River, for the purpose of improving the navigation of said river, and for which Larnie Dean and James Dean, the owners of said real estate, have a claim for damages pending before the Committee on Claims of the House of Representatives of the United States.

Affiant further says that the area of said parcel of real estate is about 66 square poles and that the plat hereto attached, made by Charles R. Morgan, surveyor, is a correct plat; that when the said Monongahela River is at average water stage the water therefrom backs into the mouth of said Pharaohs Run and submerges the said real estate about to the red line on said plat, and when said river is at high-water stage it entirely submerges said parcel of real estate; that the high-water stage of said river extends through a period of about four to five months in each year, and the stage of water in said river being so uncertain during the entire year it renders said parcel of real estate practically useless for any purpose.

Affiant further says that said parcel of land is centrally located in said town, accessible for residence and business building locations, there being a substantial bridge across said Pharaohs Run near said river, and, prior to the construction of said locks and dams in said river, the said land was smooth, level, fertile, and valuable for grazing and agricultural purposes. And affiant further says that immediately prior to the construction of the said locks and dams in said river the market value of said parcel of land was, in affiant's opinion, \$1,400, and the market value thereof at the present time is \$1,000; and that the owners of said land have been damaged by reason of the improvement of navigation of said river to the amount of, at the least, \$400, as affiant verily believes.

Affiant further says that he is not related by blood or connected by marriage with either of the said claimants, and that he has no interest whatever in said claim.

B. C. COOGLE.

Sworn to and subscribed before me, this 1st day of April, 1910.

[SEAL.]

ROSS A. WATTS,  
Notary Public in and for Marion County, W. Va.

My commission expires December 31, 1919.



